

Chair Andrea Brown
Vice Chair Jennifer Singleton
Commissioner Andrew Buss
Police Conduct Oversight Commission
350 S. 5th St - Room 239 - Minneapolis, MN 55415

July 24, 2015

Dear Commissioners,

Police brutality and racially discriminatory policing are an unyielding plague on Black communities throughout Minneapolis and the United States. As of July 20th this year, 132 Black Americans have been shot to death by police, and an untold number of Freddie Gray's and Sandra Bland's have been killed while in police custody. Police and criminal justice reform are truly matters of life and death for Black communities.

In a country where Black people are stereotyped as "violent" and police enforce the boundaries of a deeply divided and racist society -- where Black women are 3 to 4 times more likely to be targeted by law enforcement and incarcerated than white women -- we need new tools and policies to deliver police accountability, justice, and community oversight. Body cameras have the potential to play a small role in curbing police abuses against Black communities.

We're are glad that Minneapolis is taking steps towards ensuring that police officers are equipped with body cameras and that you have allowed the public to weigh in on the process of continuing to roll out cameras. With the proper community focused policies in place, police-worn body cameras can help bring greater justice and police accountability to Minneapolis' communities.

The policies that Minneapolis develops on police-worn body cameras must balance the tension between their potential to further increase over-policing of the Black communities of Minneapolis with their ability to promote police accountability. Black people in Minneapolis are already 8.7 as likely as white residents to be arrested for low-level crimes. The wrong body camera policies could exacerbate this problem.

We think this tension can be balanced with a framework of strong policies that ensure body cameras are used to protect our communities and maintain public confidence in the integrity of police-worn body cameras. Without these policies, their accountability benefits would not exceed their risks of exacerbating the already significant problems of the police and criminal justice systems of Minneapolis.

To build public confidence and ensure that Minneapolis' police-worn body camera policy is truly developed to reduce police brutality and hold police accountable, all aspects of the policy development process must continue with the input of the Minneapolis community and civil rights advocates. Once developed, body camera policies must always be publicly available online, and any policy changes must be made in consultation with the community and civil rights advocates. Anything less than this will undermine the Black community's ability to trust this tool as means of police accountability. Our lived experiences have proven time and again that the police cannot police themselves. Putting the development

of these policies into the hands of the officers who marginalize, brutalize, and kill us is to entirely dismiss body cameras as a potential tool for police accountability.

As a potential tool for police accountability and oversight it is vital that this technology not become a backdoor for further systematic surveillance and tracking of the public, nor be used to surreptitiously gather intelligence information based on First Amendment protected speech, associations, or religion. **To ensure these cameras are used for accountability and oversight, Minneapolis must commit to narrow and well-defined purposes for which these cameras and their footage may be used.**

Since these cameras will record incredible amounts of data about the citizens of Minneapolis, the Minneapolis Police Department needs to be subject to strong rules around how they are used. The use of recordings should be allowed only in internal and external investigations of misconduct, and where the police have reasonable suspicion that a recording contains evidence of a crime. Otherwise, there is no reason that stored footage should even be reviewed by a human being before its retention period ends and it is permanently deleted. Nor should such footage be subject to face recognition searches or other biometric analytics. If Minneapolis were to allow for facial recognition and biometric analysis, the MPD would effectively have a systematic surveillance method for tracking its most highly policed communities - Black communities.

With cameras placed under officer control, it is imperative that these policies put in place tightly effective means of limiting officers' ability to choose which encounters to record. **Minneapolis' policies should require that an officer activate his or her camera when responding to a call for service or at the initiation of any other law enforcement or investigative encounter between a police officer and a member of the public. This includes stops, frisks, searches, arrests, consensual interviews and searches, enforcement actions of all kinds.** This should cover any encounter that becomes in any way hostile or confrontational.

Not only must it be clear when officers are required to use their cameras, it is critical that clear policies be set with clearly defined disciplinary protocols for policy violations. In too many places (Albuquerque, Denver, and other cities) officer compliance with body camera recording and video-handling rules has been terrible. Researchers report that compliance rates with body camera policies throughout the country are as low as 30%. If there are not strict consequences for failure to comply with Minneapolis' body camera policy, Black communities will never trust that these tools bring any police accountability.

When a Minneapolis police officer assigned to wear a body camera fails to record or otherwise interferes with camera video, three responses should result:

1. Direct disciplinary action against the individual officer.
2. The adoption of rebuttable evidentiary presumptions in favor of criminal defendants who claim exculpatory evidence was not captured or was destroyed.
3. The adoption of rebuttable evidentiary presumptions on behalf of civil plaintiffs suing the government, police department and/or officers for damages based on police misconduct. The presumptions should be rebuttable by other, contrary evidence or by proof of exigent circumstances that made compliance impossible.

Evidentiary presumptions against a defendant-officer in a criminal proceeding should not be sought, as they are insufficient for meeting the burden of proof in a criminal case and might lead to false convictions. Too often, innocent Black women and men have been denied justice when the only narrative present is the “official police report.” These provisions keep the burden of proof on the MPD, rather than making the defendant prove their innocence.

Strict operational policies on retention and access to body camera data is essential to the Black community’s confidence in the ability of body cameras to serve as an accountability tool and to minimize invasive surveillance. Retention systems should ensure that segments of video and audio cannot be destroyed or manipulated by officers. **An officer or department that has engaged in abuse or other wrongdoing have strong incentives to destroy evidence of that wrongdoing, so body camera retention systems must be designed to prevent any tampering with such video.** In addition, all access to video records should be automatically recorded with immutable audit logs.

As a tool of public accountability, any Minneapolis body camera policy must address public access to footage. At a minimum: (1) **footage that captures police use of force should be made available to the public and press upon request**, and (2) **upon request, footage should be made available to any filmed subject seeking to file a complaint, to criminal defendants, and to the next-of-kin of anyone whose death is related to the events captured on video.** Police-worn body cameras are meant to be a tool to hold the Minneapolis Police Department accountable to the public. Body cameras are no good to the community if the public cannot access the footage needed for accountability and oversight.

Minneapolis’ body camera policies should be wholly designed to protect the public from police brutality and racial discrimination. **To maximize the ability of these cameras as tools of public accountability, the independent evidentiary value of officer reports must be preserved by prohibiting officers from viewing body camera footage before filing their reports.** If an officer views footage before filing the report, the officer could conform the report to what the video appears to show, rather than what the officer thought they saw. Without this crucial policy officers would be to alter the “official police account” to fit their own narrative. This commitment is necessary to ensure that these technologies are used to protect our communities and don’t further racially discriminatory policing or allow officers to literally get away with murder.

Beyond the fundamentally necessary policies described above, body cameras should generally be limited to uniformed police officers and marked vehicles. Exceptions should be made for non-uniformed officers involved in SWAT raids or in other planned enforcement actions or uses of force. Officers should be required, wherever practicable, to notify people that they are being recorded (similar to existing law for dashcams in some states such as Washington). One possibility departments might consider is for officers to wear an easily visible pin or sticker saying "lapel camera in operation" or words to that effect. Cameras might also have blinking red lights when they record, as is standard on most other cameras.

Minneapolis’ Black community has long been the victim of systemic police brutality and racially discriminatory policing as evidence by Officer Rod Webber’s harassment and illegal detention of 17-year old Hamza Jeylani. With Minneapolis’ Black population making up 19% of the city’s population but accounting for 69% of all low-level arrests, it’s clear that discriminatory events like this are commonplace.

The Black community must be given the power and oversight necessary to enforce a higher standard of policing. Effective, responsible body camera policy is a crucial means by which Minneapolis’ Black community can seize the truth, accountability, and justice we deserve from

law enforcement. If the Minneapolis Police Department is allowed to fully implement police-worn body cameras without the safeguards and policies described in this document, the Minneapolis Black community will be deprived of a potentially vital tool in the fight for police and criminal justice reform.

Sincerely,

Brandi Collins
Media Justice Director
Color of Change